

Senate File 139 - Enrolled

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SENATE FILE 139

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1 3 AN ACT
1 4 RELATING TO NEGOTIABLE INSTRUMENTS, BY PROVIDING FOR
1 5 LIABILITIES AMONG CERTAIN PARTIES, AND PROVIDING A STATUTE
1 6 OF LIMITATIONS.

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1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 10 Section 1. Section 554.3103, subsections 2 and 3, Code
1 11 2005, are amended to read as follows:

1 12 2. Other definitions applying to this Article and the
1 13 sections in which they appear are:

1 14	a.	"Acceptance"	Section 554.3409.
1 15	b.	"Accommodated party"	Section 554.3419.
1 16	c.	"Accommodation party"	Section 554.3419.
1 17	d.	"Alteration"	Section 554.3407.
1 18	e.	"Anomalous endorsement"	Section 554.3205.
1 19	f.	"Blank endorsement"	Section 554.3205.
1 20	g.	"Cashier's check"	Section 554.3104.
1 21	h.	"Certificate of deposit"	Section 554.3104.
1 22	i.	"Certified check"	Section 554.3409.
1 23	j.	"Check"	Section 554.3104.
1 24	k.	"Consideration"	Section 554.3303.
1 25	l.	"Demand draft"	Section 554.3104.
1 26	m.	"Draft"	Section 554.3104.
1 27	n.	"Holder in due course"	Section 554.3302.
1 28	o.	"Incomplete instrument"	Section 554.3115.
1 29	p.	"Endorsement"	Section 554.3204.
1 30	q.	"Endorser"	Section 554.3204.
1 31	r.	"Instrument"	Section 554.3104.
1 32	s.	"Issue"	Section 554.3105.
1 33	t.	"Issuer"	Section 554.3105.
1 34	u.	"Negotiable instrument"	Section 554.3104.
1 35	v.	"Negotiation"	Section 554.3201.
2 1	w.	"Note"	Section 554.3104.
2 2	x.	"Payable at a	
2 3		definite time"	Section 554.3108.
2 4	y.	"Payable on demand"	Section 554.3108.
2 5	z.	"Payable to bearer"	Section 554.3109.
2 6	aa.	"Payable to order"	Section 554.3109.
2 7	ab.	"Payment"	Section 554.3602.
2 8	ac.	"Person entitled	
2 9		to enforce"	Section 554.3301.
2 10	ad.	"Presentment"	Section 554.3501.
2 11	ae.	"Reacquisition"	Section 554.3207.
2 12	af.	"Special endorsement"	Section 554.3205.
2 13	ag.	"Teller's check"	Section 554.3104.
2 14	ah.	"Transfer of instrument"	Section 554.3203.
2 15	ai.	"Traveler's check"	Section 554.3104.
2 16	aj.	"Value"	Section 554.3303.

2 17 3. The following definitions in other Articles apply to
2 18 this Article:

2 19	a.	"Bank"	Section 554.4105.
2 20	b.	"Banking day"	Section 554.4104.
2 21	c.	"Clearing house"	Section 554.4104.
2 22	d.	"Collecting bank"	Section 554.4105.
2 23	e.	"Depositary bank"	Section 554.4105.
2 24	f.	"Documentary draft"	Section 554.4104.
2 25	g.	"Intermediary bank"	Section 554.4105.
2 26	h.	"Item"	Section 554.4104.
2 27	i.	"Payor bank"	Section 554.4105.
2 28	j.	"Suspends payments"	Section 554.4104.

2 29 Sec. 2. Section 554.3104, Code 2005, is amended by adding
2 30 the following new subsection:

2 31 NEW SUBSECTION. 11. a. "Demand draft" means a writing
2 32 not signed by a customer as defined in section 554.4104 that
2 33 is created by a third party under the purported authority of
2 34 the customer for the purpose of charging the customer's
2 35 account with a bank. The writing must contain the customer's
3 1 account number and may contain any of the following:
3 2 (1) The customer's printed or typewritten name;
3 3 (2) A notation that the customer authorized the draft; or
3 4 (3) The statement "no signature required", "authorized on
3 5 file", "signature on file", or words to that effect.

3 6 b. "Demand draft" does not include a check purportedly
3 7 drawn by and bearing the signature of a fiduciary as defined
3 8 in section 554.3307.
3 9 Sec. 3. Section 554.3309, subsection 1, Code 2005, is
3 10 amended to read as follows:
3 11 1. A person not in possession of an instrument is entitled
3 12 to enforce the instrument if: ~~(i)~~
3 13 ~~a. the person was in possession of the instrument and~~
3 14 ~~entitled to enforce it seeking to enforce the instrument:~~
3 15 ~~(1) was entitled to enforce the instrument when loss or~~
3 16 ~~possession occurred, or~~
3 17 ~~(2) has directly or indirectly acquired ownership of the~~
3 18 ~~instrument from a person who was entitled to the instrument~~
3 19 ~~when loss of possession occurred, (ii);~~
3 20 ~~b. the loss of possession was not the result of a transfer~~
3 21 ~~by the person or a lawful seizure; and (iii)~~
3 22 ~~c. the person cannot reasonably obtain possession of the~~
3 23 ~~instrument because the instrument was destroyed, its~~
3 24 ~~whereabouts cannot be determined, or it is in the wrongful~~
3 25 ~~possession of an unknown person or a person that cannot be~~
3 26 ~~found or is not amenable to service of process.~~
3 27 Sec. 4. Section 554.3416, subsection 1, paragraphs d and
3 28 e, Code 2005, are amended to read as follows:
3 29 d. the instrument is not subject to a defense or claim in
3 30 recoupment of any party which can be asserted against the
3 31 warrantor; ~~and~~
3 32 e. the warrantor has no knowledge of any insolvency
3 33 proceeding commenced with respect to the maker or acceptor or,
3 34 in the case of an unaccepted draft, the drawer; ~~and~~
3 35 ~~f. if the instrument is a demand draft, creation of the~~
4 1 ~~instrument according to the terms on its face was authorized~~
4 2 ~~by the person identified as the drawer.~~
4 3 Sec. 5. Section 554.3416, Code 2005, is amended by adding
4 4 the following new subsection:
4 5 NEW SUBSECTION. 5. If a warranty under subsection 1,
4 6 paragraph "f", is not given by a transferor under applicable
4 7 conflict of laws rules, the warranty is not given to that
4 8 transferor when that transferor is a transferee.
4 9 Sec. 6. Section 554.3417, subsection 1, paragraphs b and
4 10 c, Code 2005, are amended to read as follows:
4 11 b. the draft has not been altered; ~~and~~
4 12 c. the warrantor has no knowledge that the signature of
4 13 the drawer of the draft is unauthorized; ~~and~~
4 14 ~~d. if the draft is a demand draft, the creation of the~~
4 15 ~~demand draft according to the terms on its face was authorized~~
4 16 ~~by the person identified as the drawer.~~
4 17 Sec. 7. Section 554.3417, Code 2005, is amended by adding
4 18 the following new subsections:
4 19 NEW SUBSECTION. 7. A demand draft is a check as provided
4 20 in section 554.3104, subsection 6.
4 21 NEW SUBSECTION. 8. If a warranty under subsection 1,
4 22 paragraph "d", is not given by a transferor under applicable
4 23 conflict of laws rules, the warranty is not given to that
4 24 transferor when that transferor is a transferee.
4 25 Sec. 8. NEW SECTION. 554.4111 STATUTE OF LIMITATIONS.
4 26 An action to enforce an obligation, duty, or right arising
4 27 under this Article must be commenced within three years after
4 28 the cause of action accrues.
4 29 Sec. 9. Section 554.4207, subsection 1, paragraphs d and
4 30 e, Code 2005, are amended to read as follows:
4 31 d. the item is not subject to a defense or claim in
4 32 recoupment (section 554.3305, subsection 1) of any party that
4 33 can be asserted against the warrantor; ~~and~~
4 34 e. the warrantor has no knowledge of any insolvency
4 35 proceeding commenced with respect to the maker or acceptor or,
5 1 in the case of an unaccepted draft, the drawer; ~~and~~
5 2 ~~f. if the item is a demand draft, creation of the item~~
5 3 ~~according to the terms on its face was authorized by the~~
5 4 ~~person identified as the drawer.~~
5 5 Sec. 10. Section 554.4207, Code 2005, is amended by adding
5 6 the following new subsection:
5 7 NEW SUBSECTION. 6. If the warranty under subsection 1,
5 8 paragraph "f", is not given by a transferor or collecting bank
5 9 under applicable conflict of laws rules, the warranty is not
5 10 given to that transferor when the transferor is a transferee
5 11 or to any prior collecting bank of that transferee.
5 12 Sec. 11. Section 554.4208, subsection 1, paragraphs b and
5 13 c, Code 2005, are amended to read as follows:
5 14 b. the draft has not been altered; ~~and~~
5 15 c. the warrantor has no knowledge that the signature of
5 16 the purported drawer of the draft is unauthorized; ~~and~~

5 17 d. if the draft is a demand draft, the creation of the
5 18 demand draft according to the terms on its face was authorized
5 19 by the person identified as the drawer.

5 20 Sec. 12. Section 554.4208, Code 2005, is amended by adding
5 21 the following new subsections:

5 22 NEW SUBSECTION. 7. A demand draft is a check as provided
5 23 in section 554.3104, subsection 6.

5 24 NEW SUBSECTION. 8. If a warranty under subsection 1,
5 25 paragraph "d", is not given by a transferor under applicable
5 26 conflict of laws rules, the warranty is not given to that
5 27 transferor when that transferor is a transferee.

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JEFFREY M. LAMBERTI
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

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6 4 I hereby certify that this bill originated in the Senate and
6 5 is known as Senate File 139, Eighty-first General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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6 11 Approved _____, 2005

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6 15 THOMAS J. VILSACK
6 16 Governor